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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,485	03/19/2008	Yoshimasa Sakamoto	082368-006500US	1941
20350 7590 06/30/2010 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
MACFARLANE, STACEY NEE				
ART UNIT		PAPER NUMBER		
1649				
MAIL DATE		DELIVERY MODE		
06/30/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/552,485

**Applicant(s)**

SAKAMOTO ET AL.

**Examiner**

STACEY MACFARLANE

**Art Unit**

1649

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/22/2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 1, 3-17, 20-22 and 26-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 18, 19, 23-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-506)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date \_\_\_\_\_
- 6) ☐ Other: \_\_\_\_\_
- 7) ☐ Notes of Informal Patent Application
- 8) ☐ Paper No(s)/Mail Date See Continuation Sheet

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :11/28/06;3/23/2007;4/10/2008;9/10/2009.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of Group VII and SEQ ID NO: 1 in the reply filed on April 22, 2010 is acknowledged. The traversal is on the ground(s) that the claims of Groups VII, VIII, IX, XIX, XX, and XXI share a special technical feature, namely, a dopaminergic neuron proliferative progenitor cell which is selected using a Lrp4 polynucleotide probe. This is not found persuasive because the polynucleotide probe encoding Lrp4/Cortin was well known in the art prior to filing and techniques for detection using such probe were, likewise, known in the art. Additionally, the claims that Applicant has asked to be examined together (claims 2 to 4, 12, 15-20, 23-25, and 39-44) are drawn to patentably distinct inventions that do not meet the requirements of 37 C.F.R. § 1.475 (a) and (b) as being drawn to only one of the following combinations of categories:

(1) A product and a process specially adapted for the manufacture of said product; or

(2) A product and process of use of said product; or

(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or

(4) A process and an apparatus or means specifically designed for carrying out the said process; or

(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

Thus, the special technical feature that is common among the Groups does not make a contribution over the prior art.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1, 3-1, 20-22 and 26-44 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 22, 2010.
3. Claims 2, 18, 19 and 23-25 in so far as they read upon SEQ ID NO: 1, will be examined upon the merits in the instant Office action.

#### ***Priority***

4. Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Japan on October 29, 2004 and July 22, 2004. It is noted, however, that applicant has not filed a certified copy of the 2004-213743 application as required by 35 U.S.C. 119(b).

#### ***Claim Objections***

5. Claim 2 is objected to as depending from Claim 1, which is non-elected. Appropriate correction is required.

***Specification***

6. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01. Specifically, paragraphs [0047], [0051], [0121] and [0131] contain either embedded hyperlink or executable code.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 is indefinite in that it recites a method comprising the step of contacting a cell with a "polynucleotide which hybridizes under stringent conditions with a first polynucleotide consisting of" the instantly-elected SEQ ID NO: 1. While indefiniteness is decided in light of the specification, here, the specification [0050] provides only examples of conditions with varying stringency, but the claim is unclear absent a statement of the conditions under which the hybridization reaction is performed. Nucleic acids that will hybridize under some hybridization conditions will not necessarily hybridize under different conditions. The stringent hybridization conditions described in

the disclosure are merely exemplary and do not define the conditions required by the claim. Without providing a precise set of hybridization conditions, in the claim or the specification, the metes and bounds of the claimed isolated nucleic acid molecule cannot be defined.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 2, 18 and 19 are rejected under 35 U.S.C. 102(a) as being anticipated by Zhang et al. J Biol Chem, 289(19):19115-19126, January 28, 2005 as evidence by EMBL/GeneBank Accession No. AB013874, November 11, 1989.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claim 2 is drawn to a method for selecting a dopaminergic progenitor cell comprising the sole step of contacting a cell sample with a polynucleotide probe of the elected SEQ ID NO: 1. Dependent claims 18, 19 recite the method further comprising contact with a second polynucleotide probe that hybridizes to SEQ ID NO: 1 under

The Zhang et al. prior art teaches mouse embryonic stem cells were contacted with MOE430A chips and reverse transcription was carried out using PCR primers for Lrp4. Additionally, whole-mount in situ hybridization was carried out using these primers (page 19117). Table I, Group I, line 34, identifies Lrp4 as a serum-response factor (SRF) target gene, required for the terminal differentiation of stem cells (Abstract).

While the Zhang et al. prior art does not explicitly teach detection and/or selection of dopaminergic neuron progenitor cells, it fully anticipates the active steps required by the claims, namely contacting cells with Lrp4 polynucleotide probes, and since it fulfills the active steps of the claim, must inherently teach detection of dopaminergic progenitors. Thus, the method of the invention fails to distinguish over that of the prior art.

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Query Match      100.0%; Score 4864; DB 14; Length 4864;
Best Local Similarity 100.0%;
Matches 4864; Conservative 0; Mismatches 0; Indels 0; Gaps 0;

Qy      1 CTAGTCCCCAGGCAGACGGTCCCTCACTCTGTGGCTTGGCGTCGGAGACGCTGGCAGTC 60
Db      1 CTAGTCCCCAGGCAGACGGTCCCTCACTCTGTGGCTTGGCGTCGGAGACGCTGGCAGTC 60

Qy      61 ATGGGACAGGTTTTCCTTCAGCGTTCGGGTGACGTCGTCGGGAGACCGCCTCTCTTGT 120
Db      61 ATGGGACAGGTTTTCCTTCAGCGTTCGGGTGACGTCGTCGGGAGACCGCCTCTCTTGT 120

Qy      121 CTTGGGCGATGTACTCTCTCTGAGAGTCCTCTCCAAACACCGCCCTCGTGCACTGAAC 180
Db      121 CTTGGGCGATGTACTCTCTCTGAGAGTCCTCTCCAAACACCGCCCTCGTGCACTGAAC 180

Qy      181 GGTCTTGGCTGCGCGGGGGTTCCGGGGAGACTCGAGGTGGAGCGCTGGACCCGCGCCC 240
Db      181 GGTCTTGGCTGCGCGGGGGTTCCGGGGAGACTCGAGGTGGAGCGCTGGACCCGCGCCC 240

Qy      241 TTGGGACCGCTTGGCTTTCCTTCGCGGTCCAGTTCCAGGCTCCCGGACGCTGAGAGAT 300

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Db	241	TTGGGGACCCGTGGCTTCTCTCCGGTCCAGTTCCAGGCTCCCGCGAGTCGGAAGGAT	300
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Db	301	TTGCTTTGGAGCCCCCTGCTCCAGACGCTTTGAGAGCAGACAGAGCCTGGCGAGGGC	360
Qy	361	TGTCTCTCAGAAAGCTGGTGAATGCTAACTTGTGCGCTTCTCTGCTGGTGCTCATCCCC	420
Db	361	TGTCTCTCAGAAAGCTGGTGAATGCTAACTTGTGCGCTTCTCTGCTGGTGCTCATCCCC	420
Qy	421	TGCACTCTGCGCCCTCATCTGTGCTGCTGGCCATCCTGCTGCTCTTTGTGGGAACATTAAAA	480
Db	421	TGCACTCTGCGCCCTCATCTGTGCTGCTGGCCATCCTGCTGCTCTTTGTGGGAACATTAAAA	480
Qy	481	AGGGTTTATTTCAAATCAAATGACAGTGAACCTTTTGTCTACTGATGGGGAAGCTCGAGTG	540
Db	481	AGGGTTTATTTCAAATCAAATGACAGTGAACCTTTTGTCTACTGATGGGGAAGCTCGAGTG	540
Qy	541	CCTGGTGTATTTCTCTGTAAATACAGTTTATTTATGAGAACACAGGGGGCCCTCTCTGCC	600
Db	541	CCTGGTGTATTTCTCTGTAAATACAGTTTATTTATGAGAACACAGGGGGCCCTCTCTGCC	600
Qy	601	CCGACCGAGTCCACTCCAGCCTGGACACCGAGAGCTCCTTCTCCAGAGGACACAGATCAC	660
Db	601	CCGACCGAGTCCACTCCAGCCTGGACACCGAGAGCTCCTTCTCCAGAGGACACAGATCAC	660
Qy	661	AGGAACACAAGCAACCTGCATGAACATCACTCACAGCCAGTGTCAAATCTCGCCTACAC	720
Db	661	AGGAACACAAGCAACCTGCATGAACATCACTCACAGCCAGTGTCAAATCTCGCCTACAC	720
Qy	721	AGCACGTTGGCACCTCTCTTGCCAAATTTGCAAAAACATGGACATGGAGAGTTCTCTAAG	780
Db	721	AGCACGTTGGCACCTCTCTTGCCAAATTTGCAAAAACATGGACATGGAGAGTTCTCTAAG	780
Qy	781	TTCTTCACGTACCTCCATCGCCTCAGTTGCTATCAACATATCTGCTCTTGGCGCTGAGC	840
Db	781	TTCTTCACGTACCTCCATCGCCTCAGTTGCTATCAACATATCTGCTCTTGGCGCTGAGC	840
Qy	841	CTCGCCTTCCCTGAGTGCCTTGTGTGATGSCGATGACAGGCATGGTCTTCAACCTGTAGA	900
Db	841	CTCGCCTTCCCTGAGTGCCTTGTGTGATGSCGATGACAGGCATGGTCTTCAACCTGTAGA	900
Qy	901	TCTTTCTGTGAGGCTGCAAAAAGAGGATGCGAAATCTGCTCTGGGAATGGTGAACTCTCC	960
Db	901	TCTTTCTGTGAGGCTGCAAAAAGAGGATGCGAAATCTGCTCTGGGAATGGTGAACTCTCC	960
Qy	961	TGGCCGGATTCCCTCAGATGCTCTCAGTTTATGGGACCACACTGAGACATAACAGCAGTGTG	1020
Db	961	TGGCCGGATTCCCTCAGATGCTCTCAGTTTATGGGACCACACTGAGACATAACAGCAGTGTG	1020
Qy	1021	AGAAAGAGCTGCTTCTCACTGCAGCAGGAACATGGAAGCAATCACTCTGTGGAGGGGGC	1080
Db	1021	AGAAAGAGCTGCTTCTCACTGCAGCAGGAACATGGAAGCAATCACTCTGTGGAGGGGGC	1080
Qy	1081	GAGAGCTTCTGTGTACCAAGCGGGCTCTGCGTCCCCAAGAAGCTGCAGTGTAAACGGCTAT	1140
Db	1081	GAGAGCTTCTGTGTACCAAGCGGGCTCTGCGTCCCCAAGAAGCTGCAGTGTAAACGGCTAT	1140
Qy	1141	AATGACTGTGATGACTGGAGCGACGAGGCGCATTGCACTGCAGCAAGGATCTGTTTCAC	1200
Db	1141	AATGACTGTGATGACTGGAGCGACGAGGCGCATTGCACTGCAGCAAGGATCTGTTTCAC	1200
Qy	1201	TGTGSCACAGGCAAGTGCCCTCCACTACAGCCTCTTGTGTGATGGTACGATGACTGTGGG	1260
Db	1201	TGTGSCACAGGCAAGTGCCCTCCACTACAGCCTCTTGTGTGATGGTACGATGACTGTGGG	1260
Qy	1261	GACCCGAGTGACGAGCAAAACTGTGATGTAACTCACAAGAGCATGCTGTGGAGAT	1320

Db	1261		1320
Qy	1321	GGCGCTGCATTCCGCGTGA	1380
Db	1321	GGCGCTGCATTCCGCGTGA	1380
Qy	1381	GATGAGTCAACTGCTCTTGT	1440
Db	1381	GATGAGTCAACTGCTCTTGT	1440
Qy	1441	ATCCCTAGCACCTTCCAGTGT	1500
Db	1441	ATCCCTAGCACCTTCCAGTGT	1500
Qy	1501	AACTGCAGTGACAGT	1560
Db	1501	AACTGCAGTGACAGT	1560
Qy	1561	TGCGTCGAATCCTGTGCTGT	1620
Db	1561	TGCGTCGAATCCTGTGCTGT	1620
Qy	1621	AGTCAATGTGAGCCCATC	1680
Db	1621	AGTCAATGTGAGCCCATC	1680
Qy	1681	TATCCAAATTACCTTGGCC	1740
Db	1681	TATCCAAATTACCTTGGCC	1740
Qy	1741	CTTTTCCTGCGCTTGTAC	1800
Db	1741	CTTTTCCTGCGCTTGTAC	1800
Qy	1801	ATTTTGGTTCCAAAGTGT	1860
Db	1801	ATTTTGGTTCCAAAGTGT	1860
Qy	1861	TGTGAGCACTCCAAAGAG	1920
Db	1861	TGTGAGCACTCCAAAGAG	1920
Qy	1921	GAAGACACCGACTGCAAT	1980
Db	1921	GAAGACACCGACTGCAAT	1980
Qy	1981	CCCAATGAAGATGTGGAA	2040
Db	1981	CCCAATGAAGATGTGGAA	2040
Qy	2041	GTTCTGGGCTCCAGGAG	2100
Db	2041	GTTCTGGGCTCCAGGAG	2100
Qy	2101	AACTGTGGTTGTAAGAG	2160
Db	2101	AACTGTGGTTGTAAGAG	2160
Qy	2161	CATACATTAACTCTGC	2220
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Qy	2341	TCTAAAAATGGGAAGCTCCTCCTCATTGCTGACTGTTCCAAAAATCTGCAAAAGCAACACCAC	2400
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Qy	2401	GTGTGTGCTGACCGCTGGCGGGAGACGTTGAGTCAGCTGGCTGCAAGCAGATGGGTTTA	2460
Db	2401	GTGTGTGCTGACCGCTGGCGGGAGACGTTGAGTCAGCTGGCTGCAAGCAGATGGGTTTA	2460
Qy	2461	GGAGAACCGCTCTGTGACCAAGCTGATCCACAGGACAGGAAGGCCAGCAGTGGCTGAGGTTG	2520
Db	2461	GGAGAACCGCTCTGTGACCAAGCTGATCCACAGGACAGGAAGGCCAGCAGTGGCTGAGGTTG	2520
Qy	2521	TACCCCAACTGGGAGAAATCTCAATGGGAGCACCTTGCGAGGAGTCTGTGTATACAGGCAC	2580
Db	2521	TACCCCAACTGGGAGAAATCTCAATGGGAGCACCTTGCGAGGAGTCTGTGTATACAGGCAC	2580
Qy	2581	TCCCTGCCCAAGCAGAAAGTGAGATTTCCCTTCTGTGCTCCAAAGCAAGACTGTGGCGCGCGC	2640
Db	2581	TCCCTGCCCAAGCAGAAAGTGAGATTTCCCTTCTGTGCTCCAAAGCAAGACTGTGGCGCGCGC	2640
Qy	2641	CCTGCTGCCCGAATGAACAGAGGATCCTTGGGGGTCCGACTAGTCGCTCCTGGGAGGTGG	2700
Db	2641	CCTGCTGCCCGAATGAACAGAGGATCCTTGGGGGTCCGACTAGTCGCTCCTGGGAGGTGG	2700
Qy	2701	CCGTGGCAGTGTCTCTCTGCAGAGTGAACCCAGTGACATATCTGTGGCTGTGTCTCAIT	2760
Db	2701	CCGTGGCAGTGTCTCTCTGCAGAGTGAACCCAGTGACATATCTGTGGCTGTGTCTCAIT	2760
Qy	2761	GCCAAAGAGTGGGTCTGTGACAGTTGCCCATTTGCTTTGAAGGGAGAGAGACGCTGATGTT	2820
Db	2761	GCCAAAGAGTGGGTCTGTGACAGTTGCCCATTTGCTTTGAAGGGAGAGAGACGCTGATGTT	2820
Qy	2821	TGGAAAGTGGTATTTTGGCATAAACAACTGGACCATCCATCAGGCTTCATGCAAGCCGC	2880
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Qy	2881	TTTGTGAAGACCATCCTGCTACATCCCGGTTACAGTCGAGCAGTGGTAGCATATGATATC	2940
Db	2881	TTTGTGAAGACCATCCTGCTACATCCCGGTTACAGTCGAGCAGTGGTAGCATATGATATC	2940
Qy	2941	AGCGTGTGGAGCTGAGCGATGATATCAATGAGCAAGCTACGTCAGACCTGTCTGCGCTA	3000
Db	2941	AGCGTGTGGAGCTGAGCGATGATATCAATGAGCAAGCTACGTCAGACCTGTCTGCGCTA	3000
Qy	3001	CCAGTCCGGAGGAGTATCTAGAACAGATACGTACTGTCATACACAGGCTGGGGCCAC	3060
Db	3001	CCAGTCCGGAGGAGTATCTAGAACAGATACGTACTGTCATACACAGGCTGGGGCCAC	3060
Qy	3061	ATGGGCAATAAAATGCCCTTTAAGCTGCAGGAGGAGAGGTCGCGCAATTATCCCTCGGAG	3120
Db	3061	ATGGGCAATAAAATGCCCTTTAAGCTGCAGGAGGAGAGGTCGCGCAATTATCCCTCGGAG	3120
Qy	3121	CAGTCCGAGTCTTATTTTGACATGAAGACCATCACCATCGGATGATCTGTGCTGGCTAT	3180
Db	3121	CAGTCCGAGTCTTATTTTGACATGAAGACCATCACCATCGGATGATCTGTGCTGGCTAT	3180
Qy	3181	GAGTCTGGCACCGTGGACTCTGCAATGGGAGACAGCGGTGGGCTCTGGTTTGTGAACGA	3240
Db	3181	GAGTCTGGCACCGTGGACTCTGCAATGGGAGACAGCGGTGGGCTCTGGTTTGTGAACGA	3240
Qy	3241	CCCGAGGACAGTGGACATTTTGGTTTAACTTCATGGGGCTCCGTCGTCTTTTCCAAA	3300
Db	3241	CCCGAGGACAGTGGACATTTTGGTTTAACTTCATGGGGCTCCGTCGTCTTTTCCAAA	3300

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Qy 3901 AAGAAATCATGAAAGACAGAGAAAGGACCCACAGTGTGATCTAGACAGTTGAAGTTGCA 3960  
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Db 4081 CGGAGTATGTCACTTAGATGACTGTGATGTCAAAAGCCAGGTCAATCCTTGAGGAAATAA 4140  
Qy 4141 TTTGTTTGTGTTATGTGGGAATGAATAAGAAATCTTTCCATTCCGCAAAACACACAAATTA 4200  
Db 4141 TTTGTTTGTGTTATGTGGGAATGAATAAGAAATCTTTCCATTCCGCAAAACACACAAATTA 4200  
Qy 4201 AAAGGAGAAAAAAATTAATAACATTCCACACCCCAATTAATTCGAAAAATAGTCTGCT 4260  
Db 4201 AAAGGAGAAAAAAATTAATAACATTCCACACCCCAATTAATTCGAAAAATAGTCTGCT 4260  
Qy 4261 TGTATTCCACCCAAAACAGAAAAGTTACAGAAATATATTTCAAAGTCGAGCAAAATGTGC 4320

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Db      4261  TGTATTCCACCCAAAACAGAAAAGTTACAGAAATATATTTCAAAGTGCAGCAAAATGTTGC 4320
Qy      4321  ATGGAGTATATAACATTTTGCAAATTTCCCCCTCATGATGTCTAACATCCGGTATTGCCAT 4380
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Db      4321  ATGGAGTATATAACATTTTGCAAATTTCCCCCTCATGATGTCTAACATCCGGTATTGCCAT 4380
Qy      4381  TTGCCTCATTGATTAATTAATAACTAAATTTTAAGGATGCTTTTAAGCACTGGGCCACTTTA 4440
      |||
Db      4381  TTGCCTCATTGATTAATTAATAACTAAATTTTAAGGATGCTTTTAAGCACTGGGCCACTTTA 4440
Qy      4441  TGGGAATCAATTCOCNAAGCAATTAGTGGTTACAAAGTATTTTTTCCCACTAAAAAGTTTC 4500
      |||
Db      4441  TGGGAATCAATTCOCNAAGCAATTAGTGGTTACAAAGTATTTTTTCCCACTAAAAAGTTTC 4500
Qy      4501  AAAACACAAACCTTCATACTAAATTAATTAGCCAGACATGAACATATGTAACATGCAAAATG 4560
      |||
Db      4501  AAAACACAAACCTTCATACTAAATTAATTAGCCAGACATGAACATATGTAACATGCAAAATG 4560
Qy      4561  CCTTTTTGAACAAGTAGGATGCACTGTTAAACTTCACCAGCAACCAAACTGCCTCAGTAT 4620
      |||
Db      4561  CCTTTTTGAACAAGTAGGATGCACTGTTAAACTTCACCAGCAACCAAACTGCCTCAGTAT 4620
Qy      4621  TGCCTACAGGGGACTACCTGCAATTTTATATGTGTATTTTGTACTCTTTTCTAGATAGT 4680
      |||
Db      4621  TGCCTACAGGGGACTACCTGCAATTTTATATGTGTATTTTGTACTCTTTTCTAGATAGT 4680
Qy      4681  CAAATGCAAAACATTGTTTCAACCCCTATTCTCCATGTTGTTCACTCTGTGCTCGGAAT 4740
      |||
Db      4681  CAAATGCAAAACATTGTTTCAACCCCTATTCTCCATGTTGTTCACTCTGTGCTCGGAAT 4740
Qy      4741  TTGTTACAAAGTGTGTGTAGCAAAATGATTGTACTGCGGTCAAGACTATATGAAGTTTAG 4800
      |||
Db      4741  TTGTTACAAAGTGTGTGTAGCAAAATGATTGTACTGCGGTCAAGACTATATGAAGTTTAG 4800
Qy      4801  GACCATCGGGTCGGTTTTTGTATAATTGTTGGCAGATAAATAAATAATTTTTAGCAT 4860
      |||
Db      4801  GACCATCGGGTCGGTTTTTGTATAATTGTTGGCAGATAAATAAATAATTTTTAGCAT 4860
Qy      4861  TGGG 4864
      |||
Db      4861  TGGG 4864
```

11. Claims 2, 18, and 19 23-25 are rejected under 35 U.S.C. 102(a) as being anticipated by Ono et al., WO 2004/065599, published August 5, 2004, English translation provided.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claims 2, 18, 19 and 23-25 are drawn to a method for selecting a dopaminergic progenitor cell comprising the sole step of contacting a cell sample with a polynucleotide

probe of the elected SEQ ID NO: 1. further comprising contact with a second polynucleotide probe that hybridizes to SEQ ID NO: 1 under stringent conditions; wherein said second probe is at least 15 nucleotides; further comprising culturing the selected cell and selecting postmitotic cells.

The Ono prior art teaches methods for isolating specific genes at each mature phase from a precursor cell to a dopamine production neuron (Translation, page 2, claim 7). The reference specifically teaches a process in which a cell sample is contacted with a polypeptide that is identical to SEQ ID NO: 1 (SEQ ID NO: 1 of the reference), which encodes the murine Lrp4 polypeptide, further comprising culturing the precursor cell, and selecting cells by using a marker that indicates cell division has stopped (Translation, page 6). The reference reveals that polynucleotide probes that may be used can be double stranded cDNA or RNA and can include complementary base sequences (Id, page 7) that hybridize under stringent conditions that are outlined on page 26 of the translated disclosure. The polynucleotide may contain 15 continuous bases and discloses probes that are 15-100 bases and more preferably 15-35 bases (Id, page 9). Thus, the active step required by the method of the instant claims fail to distinguish over those of the methods disclosed within the prior art. Claims 2, 18, 19 and 23-25 are anticipated by the reference.

12. Claims 2, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Morser et al., WO 1999/64608, published December 16, 1999, filed June 4, 1999.

The Morser et al. prior art teaches methods comprising contacting cell and tissue samples with nucleic acid probes against the human corin allele (SEQ ID NO: 1 of the reference, page 13) which has 99.8 local base similarity to SEQ ID NO: 1 of the instant claims (see alignment below). The reference also teaches methods comprising nucleic acid probes that are complementary to and hybridize to the corin sequence under stringent conditions (pages 15-16). The reference provides guidance for oligonucleotide probes for methods comprising contacting cell samples (pages 19-20), And specifically teaches said oligonucleotide probes to be about 10-200, 12-100 or preferably 12-50, 12-25, 14-16, or at least about 15 nucleotides in length (page 20 lines 16-18). Given the considerable homology between the corin sequence and SEQ ID NO: 1 of the claims, and the breadth of the claims as encompassing any polynucleotide probe or a probe of at least 15 bases in length, then the method of the instant claims fails to distinguish over the methods taught by the prior art., Claims 2, 18 and 19 are anticipated by the reference.

```
Best Local Similarity 99.8%;
Matches 3537; Conservative 0; Mismatches 8; Indels 0; Gaps 0;

Qy 11 GGCAGACGGTCCCTCACTCCTGTGGCTTGGCGTCGGAGACGCTGGCAGTCATGGGCAGGG 70
Db 3 GGCAGACGGTCCCTCACTCCTGTGGCTTGGCGTCGGAGACGCTGGCAGTCATGGGCAGGG 62

Qy 71 TTTCCTTCAGCGTTTCGGGTCAGCTCCGTGCGGAGAGCCCGCTGCTCTTTGTCTCTGGGCGAT 130
Db 63 TTTCCTTCAGCGTTTCGGGTCAGCTCCGTGCGGAGAGCCCGCTGCTCTTTGTCTCTGGGCGAT 122

Qy 131 GCTACCTCTCCTGCGAGAGTCCCTCCAAACACCGCCCTCCGTGCACTGAACGGTCTTTGGCT 190
Db 123 GCTACCTCTCCTGCGAGAGTCCCTCCAAACACCGCCCTCCGTGCACTGAACGGTCTTTGGCT 182

Qy 191 GCGCGGGGGTTCCGGGGGAGACTGCAAGGTGGAGCCGCTGGACCCGGGCCCTTTGGGACCC 250
Db 183 GCGCGGGGGTTCCGGGGGAGACTGCAAGGTGGAGCCGCTGGACCCGGGCCCTTTGGGACCC 242

Qy 251 GTGGCTTCCCTCCCGGTCCAAGTTCCAGGCTCCCGGCACTGGAAGGATTGCTTTGGAG 310
Db 243 GTGGCTTCCCTCCCGGTCCAAGTTCCAGGCTCCCGGCACTGGAAGGATTGCTTTGGAG 302

Qy 311 CCCCGCCTGCTCCAGACGCTCTTGAGAGCAGACAGGAGCGTGGGCGAGGGCTGTCCCTCAGA 370
Db 303 CCCCGCCTGCTCCAGACGCTCTTGAGAGCAGACAGGAGCGTGGGCGAGGGCTGTCCCTCAGA 292
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Db 303 CCCCOCCTGCTCCAGAGCTCTTGAGAGCAGACAGGAGCGTGGGCGAGGGCTGTCTCAGA 362

Qy 371 AGCTGGTGACTGCTAACTTGCTGCGCTTCCTCCTGGTGCTCATCCCCGCACTCGG 430

Db 363 AGCTGGTGACTGCTAACTTGCTGCGCTTCCTCCTGGTGCTCATCCCCGCACTCGG 422

Qy 431 CCGTCATCGTGTGCTGCGCATCTGCTGTCTCTTTGTGGGAACATTAAAAAGGGTTTATT 490

Db 423 CCGTCATCGTGTGCTGCGCATCTGCTGTCTCTTTGTGGGAACATTAAAAAGGGTTTATT 482

Qy 491 TCAAAATCAAAATGACAGTGAACCTTTTGTCACCTGATGGGGAAGCTCGAGTGCCTGGTGT 550

Db 483 TCAAAATCAAAATGACAGTGAACCTTTTGTCACCTGATGGGGAAGCTCGAGTGCCTGGTGT 542

Qy 551 TTGCTGTAAATACAGTTTATTATGAGAACACAGGGGCGCCCTCTCTGCCCCCGAGCCAGT 610

Db 543 TTGCTGTAAATACAGTTTATTATGAGAACACAGGGGCGCCCTCTCTGCCCCCGAGCCAGT 602

Qy 611 CCAGTCCAGCCTGGACACCGAGAGCTCCTTCTCCAGGAGACAGAGTCAACAGAAACAA 670

Db 603 CCAGTCCAGCCTGGACACCGAGAGCTCCTTCTCCAGGAGACAGAGTCAACAGAAACAA 662

Qy 671 GCACCTGCATGAACATCACTCACAGCCAGTGTCAAATTCGCGCTACCAACAGCAGTTGG 730

Db 663 GCACCTGCATGAACATCACTCACAGCCAGTGTCAAATTCGCGCTACCAACAGCAGTTGG 722

Qy 731 CACCTCTCTTGCCAAATTGTCAAAAAATGGACATGGAGAGTTCTCTCAAGTTCTTCACGT 790

Db 723 CACCTCTCTTGCCAAATTGTCAAAAAATGGACATGGAGAGTTCTCTCAAGTTCTTCACGT 782

Qy 791 ACCTCCATCGCCTCAGTTGCTATCAACATATCCTGCTCTTCGCGTGTAGCCTCGCCTTC 850

Db 783 ACCTCCATCGCCTCAGTTGCTATCAACATATCCTGCTCTTCGCGTGTAGCCTCGCCTTC 842

Qy 851 CTGAGTGCGTGTGATGGCGATGACAGGCATGGTCTCTTACCGTGTAGATCTTTCTGTG 910

Db 843 CTGAGTGCGTGTGATGGCGATGACAGGCATGGTCTCTTACCGTGTAGATCTTTCTGTG 902

Qy 911 AGGCTGCAGAAAGAGGATGCGAATCTGCTCCTGGGAATGGTGAACCTCCTCTGGCCGGATT 970

Db 903 AGGCTGCTAAGAGAGGATGCGAATCTGCTCCTGGGAATGGTGAACCTCCTCTGGCCGGATT 962

Qy 971 CCCTCAGATGCTCTCAGTTTAGGGACACACTGAGACTAACAGCAGTGTACAGAAAGAGCT 1030

Db 963 CCCTCAGATGCTCTCAGTTTAGGGACACACTGAGACTAACAGCAGTGTACAGAAAGAGCT 1022

Qy 1031 GCTTCTCACTGCAGCAGGAACATGGAAAGCAATCACTCTGTGGAGGGGGCGAGAGCTTC 1090

Db 1023 GCTTCTCACTGCAGCAGGAACATGGAAAGCAATCACTCTGTGGAGGGGGCGAGAGCTTC 1082

Qy 1091 TGTGTACCAGCGGGCTCTGCGTCCCCAAGAAGCTGCAGTGTAAACGGCTATAATGACTGTG 1150

Db 1083 TGTGTACCAGCGGGCTCTGCGTCCCCAAGAAGCTGCAGTGTAAACGGCTATAATGACTGTG 1142

Qy 1151 ATGACTGGAGCGACGAGGCGCATTGCAACTGCAGCAAGGATCTGTTTCACTGTGGCACAG 1210

Db 1143 ATGACTGGAGCGACGAGGCGCATTGCAACTGCAGCAAGGATCTGTTTCACTGTGGCACAG 1202

Qy 1211 GCAAGTGCGCTCCACTACAGCCTCTTGTGTATGGGTACGATGACTGTGGGGACCCGAGTG 1270

Db 1203 GCAAGTGCGCTCCACTACAGCCTCTTGTGTATGGGTACGATGACTGTGGGGACCCGAGTG 1262

Qy 1271 ACGAGCAAAACTGTGATTGTAATCTACAAAAGACCATCGCTGTGGAGATGGGCGCTGCA 1330

Db 1263 ACGAGCAAAACTGTGATTGTAATCTACAAAAGACCATCGCTGTGGAGATGGGCGCTGCA 1322

Qy 1331 TTGCGCGTGAGTGGGTGTGCGATGGGACCATGACTGTGTGGCAAGTCTGATGAGGTCA 1390



Db 1323 |||||TTGCCGCTGAGTGGGTGTGCGATGGGGACATGACTGTGTGGACAAGCTGATGAGGTCA 1382

Qy 1391 ACTGCTCTTTTCACAGCCAGGCGCTGTGGAAATGCACAAAGTGGACATGCATCCCTAGCA 1450

Db 1383 ACTGCTCTTTTCACAGCCAGGCGCTGTGGAAATGCAGAAATGGACAGTGCATCCCTAGCA 1442

Qy 1451 CCTTCCAGTGTGATGGGGACGAAAGACTGTAAAGGATGGGAGTGACGAGGAGAACTGCAGTG 1510

Db 1443 CCTTCCAGTGTGATGGGGACGAAAGACTGTAAAGGATGGGAGTGACGAGGAGAACTGCAGTG 1502

Qy 1511 ACAGTCAGACGCCATGTCCAGAAAGGAAACAGGGATGCTTTGGCAGTTCCTGCGTCGAAT 1570

Db 1503 ACAGTCAGACGCCATGTCCAGAAAGGAAACAGGGATGCTTTGGCAGTTCCTGCGTCGAAT 1562

Qy 1571 CCTGTGCTGGTAGCTCTCTGTGTGACTCAGACAGACGCTGAGTAACTGCAGTCAATGTG 1630

Db 1563 CCTGTGCTGGTAGCTCTCTGTGTGACTCAGACAGACGCTGAGTAACTGCAGTCAATGTG 1622

Qy 1631 AGCCCATCACTTTTGAACCTCTGCATGAATTTGCTCTCAACCAATACACATATCCAAAT 1690

Db 1623 AGCCCATCACTTTTGAACCTCTGCATGAATTTGCCCTACAACCAATACACATATCCAAAT 1682

Qy 1691 ACCTTGGCCACAGAACTCAAAAGGAGCGCTCCATCAGCTGGGAGTCATCCCTTTTCGCTG 1750

Db 1683 ACCTTGGCCACAGAACTCAAAAGGAGCGCTCCATCAGCTGGGAGTCATCCCTTTTCGCTG 1742

Qy 1751 CCCTTGTACAAACCAACTGTTTACAAATACCTCATGTTTTTCGCTTGCACCAATTTGGTTT 1810

Db 1743 CCCTTGTACAAACCAACTGTTTACAAATACCTCATGTTTTTCGCTTGCACCAATTTGGTTT 1802

Qy 1811 CAAAGTGTGATGTGAATACAGGACAAACGCTATCCGCGCTTCGAGACTCCTGTGTGAGCACT 1870

Db 1803 CAAAGTGTGATGTGAATACAGGACAAACGCTATCCGCGCTTCGAGACTCCTGTGTGAGCACT 1862

Qy 1871 CCAAAGAGCGCTGTGAGTCTGTTCTCGGAAATCGTTGGCGCTGCAGTGGCGCTGAAGACACCG 1930

Db 1863 CCAAAGAGCGCTGTGAGTCTGTTCTCGGAAATCGTTGGCGCTGCAGTGGCGCTGAAGACACCG 1922

Qy 1931 ACTGCAATCAATTTCCAGAGGAAAGTTTCAGACAAATCAAACTTGCGCTCCTGCGCAATGAAG 1990

Db 1923 ACTGCAATCAATTTCCAGAGGAAAGTTTCAGACAAATCAAACTTGCGCTCCTGCGCAATGAAG 1982

Qy 1991 ATGTGGAAGAAATGCTCTCCGAGTCACTTCAATGCGCGCTCGGGACGATGCGTTCTGGGCT 2050

Db 1983 ATGTGGAAGAAATGCTCTCCGAGTCACTTCAATGCGCGCTCGGGACGATGCGTTCTGGGCT 2042

Qy 2051 CCAGGAGATGTGACGCGCCAGGCTGACTGTGACGACGACAGTGCAGGAGGAACTGTGGTT 2110

Db 2043 CCAGGAGATGTGACGCGCCAGGCTGACTGTGACGACGACAGTGCAGGAGGAACTGTGGTT 2102

Qy 2111 GTAAGAGAGAGCTCTTTGGGAATGTCCATTTAAATAAGCAATGTCTGAAGCATCATATAA 2170

Db 2103 GTAAGAGAGAGCTCTTTGGGAATGTCCATTTAAATAAGCAATGTCTGAAGCATCATATAA 2162

Qy 2171 TCTGCGATGGGTTTCCAGATTTGTCCAGACAGTATGGATGAAAAAATGCTCTCAATTTTGGC 2230

Db 2163 TCTGCGATGGGTTTCCAGATTTGTCCAGACAGTATGGATGAAAAAATGCTCTCAATTTTGGC 2222

Qy 2231 AAGACAATGAGCTGGAATGTGCCAACCATGAGTGTGTGCGCGCTGACCTTTGGTGGCAGG 2290

Db 2223 AAGACAATGAGCTGGAATGTGCCAACCATGAGTGTGTGCGCGCTGACCTTTGGTGGCAGG 2282

Qy 2291 GATGGGTGAGTGTCTCAGACAGTTCTGATGAATGGGGCTGTGTGACCTCTCTCAAAAATG 2350

Db 2283 GATGGGTGAGTGTCTCAGACAGTTCTGATGAATGGGGCTGTGTGACCTCTCTCAAAAATG 2342

Qy	2351	GGAACTCCTCCTCATTGCTGACTGTTCAAAAATCTGCAAGGAACACACCTGTGTGCTG	2410
Db	2343	GGAACTCCTCCTCATTGCTGACTGTTCAAAAATCTGCAAGGAACACACCTGTGTGCTG	2402
Qy	2411	ACGCTGTGGCGGAGACGTTGAGTCACTGGCCCTGCAAGCAGATGGGTTTACGAGAACCGT	2470
Db	2403	ACGCTGTGGCGGAGACGTTGAGTCACTGGCCCTGCAAGCAGATGGGTTTACGAGAACCGT	2462
Qy	2471	CTGTGACCAAGCTGATCCAGGACAGGAAGCCAGCAGTGGCTGAGGTTGTACCCCAACT	2530
Db	2463	CTGTGACCAAGCTGATCCAGGACAGGAAGCCAGCAGTGGCTGAGGTTGTACCCCAACT	2522
Qy	2531	GGGGAATCTCAATGGGAGCACCTTGACAGAGCTGCTGTATACAGGCACTCCTGCCCAA	2590
Db	2523	GGGGAATCTCAATGGGAGCACCTTGACAGAGCTGCTGTATACAGGCACTCCTGCCCAA	2582
Qy	2591	GCAGAGTGAGATTTCCCTTCTGTGCTCCAAAGCAAGACTGTGGCCGCCGCCCTGTGCC	2650
Db	2583	GCAGAGTGAGATTTCCCTTCTGTGCTCCAAAGCAAGACTGTGGCCGCCGCCCTGTGCC	2642
Qy	2651	GAATGAACAAGAGCATCTTGGGGTCCGACTAGTCGTCCTGGAGGTGGCCGTGGCAGT	2710
Db	2643	GAATGAACAAGAGCATCTTGGGGTCCGACTAGTCGTCCTGGAGGTGGCCGTGGCAGT	2702
Qy	2711	GCTCTCTGCAGAGTGAAACCAAGTGGACATATCTGTGGCTGTGCTCATTTGCCAAGAGT	2770
Db	2703	GCTCTCTGCAGAGTGAAACCAAGTGGACATATCTGTGGCTGTGCTCATTTGCCAAGAGT	2762
Qy	2771	GGTCCTGCAGAGTTGCCATTGCTTTGAAGGAGAGAAGACGCTGATGTTTGAAGAGTG	2830
Db	2763	GGTCCTGCAGAGTTGCCATTGCTTTGAAGGAGAGAAGACGCTGATGTTTGAAGAGTG	2822
Qy	2831	TATTTGGCATAAAACAACCTGGACCATCCATCAGGCTTCATGCAGACCCGCTTTGTGAAGA	2890
Db	2823	TATTTGGCATAAAACAACCTGGACCATCCATCAGGCTTCATGCAGACCCGCTTTGTGAAGA	2882
Qy	2891	CCATCCTGCTACATCCCCGTTACAGTCGAGCAGTGGTAGACTATGATATCAGCGTGGTGG	2950
Db	2883	CCATCCTGCTACATCCCCGTTACAGTCGAGCAGTGGTAGACTATGATATCAGCGTGGTGG	2942
Qy	2951	AGCTGAGCGATGATATCAATGAGACAAAGTACGTGAGACCTGTCTGCCTACCCAGTCCGG	3010
Db	2943	AGCTGAGCGATGATATCAATGAGACAAAGTACGTGAGACCTGTCTGCCTACCCAGTCCGG	3002
Qy	3011	AGGAGTATCTAGAACAGATACGTACTGCTACATCAGGCTGGGGCCATCGGCAATA	3070
Db	3003	AGGAGTATCTAGAACAGATACGTACTGCTACATCAGGCTGGGGCCATCGGCAATA	3062
Qy	3071	AAATGCCCTTTAAGCTGCAGGAGGGAGAGGTCGCGATTATCCCTCTGGAGCAGTCCGACT	3130
Db	3063	AAATGCCCTTTAAGCTGCAGGAGGGAGAGGTCGCGATTATCCCTCTGGAGCAGTCCGACT	3122
Qy	3131	CCTATTTTGGACATGAAGACCATCACCATCGGATGATCTGTGCTGGCTATGAGTCTGGCA	3190
Db	3123	CCTATTTTGGACATGAAGACCATCACCATCGGATGATCTGTGCTGGCTATGAGTCTGGCA	3182
Qy	3191	CGTGGACTCCTGCATGGGAGACAGCGGTGGGCCCTCTGGTTTGTGAACGACCCGAGGAC	3250
Db	3183	CGTGGACTCCTGCATGGGAGACAGCGGTGGGCCCTCTGGTTTGTGAACGACCCGAGGAC	3242
Qy	3251	AGTGGACATTATTTGGTTTAACTTCATGGGGCTCCGCTGCTGTTTCCAAAGTCTCTGGAC	3310
Db	3243	AGTGGACATTATTTGGTTTAACTTCATGGGGCTCCGCTGCTGTTTCCAAAGTCTCTGGAC	3302
Qy	3311	CTGGAGTGTACAGCAATGTGTCTTACTTTGTGGGCTGGATTGAAAGACAAATATATATCC	3370
Db	3303	CTGGAGTGTACAGCAATGTGTCTTACTTTGTGGGCTGGATTGAAAGACAAATATATATCC	3362

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Qy      3371  AGACCTTTCTCCAAAAGAAATCCCAAGGATAATCAGAGACTTTGTGGGAAAACCTACATG  3430
      |||||||
Db      3363  AGACCTTTCTCCAAAAGAAATCCCAAGGATAATCAGAGACTTTGTGGGAAAACCTACATG  3422
      |||||||
Qy      3431  GAGAAATGACCCCTCTGAAACAGAAAGCTTGTCTGCGCAAGAGCTGTACGAAACAGGCGTTTCA  3490
      |||||||
Db      3423  GAGAAATGACCCCTCTGAAACAGAAAGCTTGTCTGCGCAAGAGCTGTACGAAACAGGCGTTTCA  3482
      |||||||
Qy      3491  CGGACAGGACGCTCAACATGCAACGCAAGATCTCTCTCTTTTGTGCTAGATGAGTTTTAC  3550
      |||||||
Db      3483  CGGACAGGACGCTCAACATGCAACGCAAGATCTCTCTCTTTTGTGCTAGATGAGTTTTAC  3542
      |||||||
Qy      3551  TCAGG  3555
      |||||
Db      3543  TCAGG  3547
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### ***Double Patenting***

13. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory

double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

14. Claims 2, 18, 19 and 23-25 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 of copending Application No. 12/110111. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the '111 Application read upon a method of selecting dopaminergic neuron progenitor cells comprising contacting a cell sample with a polynucleotide probe for Lpr4 and further comprising culturing said cells and selecting postmitotic cells using a postmitotic biomarker.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented, however, a Notice of Allowability has been mailed on May 27, 2010 but issue fees have not been paid.

### ***Conclusion***

15. No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STACEY MACFARLANE whose telephone number is (571)270-3057. The examiner can normally be reached on M-R 5:45 to 3:30, TELEWORK-Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Stucker can be reached on (571) 272-0911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Stacey MacFarlane  
Examiner  
Art Unit 1649

/Daniel E Kolker/  
Primary Examiner, Art Unit 1649  
June 28, 2010